

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1338 of 1997

in

SPECIAL CIVIL APPLICATION No 6067 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN and
MR.JUSTICE C.K.THAKKER

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

GIRISHCHANDRA SURYAKANT SHUKLA

Versus

STATE BANK OF INDIA

Appearance:

MR ARUN H MEHTA for Appelant

MR PRANAV G DESAI for Respondent No. 1, 2

CORAM : MR.JUSTICE K.G.BALAKRISHNAN and
MR.JUSTICE C.K.THAKKER

Date of decision: 02/12/97

ORAL JUDGEMENT

Admitted. Mr.P.G.Desai appears and waives service

of notice of admission. In the facts and circumstances, the matter is taken up for final hearing to day.

This appeal is filed against the judgment and order passed by the learned Single Judge in Special Civil Application No. 6067 of 1994 decided on October 14, 1997. By the said judgment, the learned Single Judge dismissed the petition filed by the appellant-petitioner wherein a prayer was made to stay departmental proceedings during the pendency of criminal trial pending against the appellant.

The petitioner, who was working in the respondent Bank- State Bank of India, was placed under suspension in 1990. Articles of charges were levelled against him and departmental proceedings were started. It appears that CBI filed charge-sheet on 25th March 1993. As criminal proceedings were initiated, the petitioner approached this court by filing the above petition in 1994 praying therein to stay departmental proceedings till criminal trial is over.

The learned Single Judge relying upon a decision of the Apex Court in the State of Rajasthan vs. B.K.Meena, AIR 1997 SC 13, held that departmental proceedings need not be stayed on the ground of pendency of criminal case. When the matter came up for final hearing, the learned Single Judge wanted to know about the stage of criminal trial. As observed in the judgment impugned in this Letters Patent Appeal, positive information regarding the stage of the criminal trial was neither available with the learned counsel for the petitioner nor with the learned Counsel for the respondent Bank. The learned Single Judge, in these circumstances, dismissed the petition.

When the appeal was placed for admission, the learned counsel for the appellant submitted that criminal case has already started and that it was likely to be over within a short time. Notice was, therefore, issued by making it returnable and to day we have admitted the appeal and heard the learned counsel for the parties.

Looking to affidavits-in-reply filed before the learned Single Judge as well as in the present proceedings, it is clear that criminal case has already started. Some witnesses have also been examined and whenever the case was adjourned, it was only for few days. Mr.Mehta, learned counsel for the appellant has stated that his client has cooperated and will cooperate in the trial. He, therefore, submitted that in the facts

and circumstances of the case, particularly when criminal case is already going on and ten witnesses have been examined, for some time, departmental proceedings may not be allowed to be initiated particularly when stay was granted in 1994 and is operative so far.

In the facts and circumstances of the case, in our opinion, ends of justice would be met, if for the time being departmental proceedings which were stayed during the pendency of the Special Civil Application and now it is ordered to be completed within six months from the date of the judgment is stayed till March 31, 1998. The appellant will cooperate with the disposal of criminal case.

For the foregoing reasons, the appeal is partly allowed. The order passed by the learned Single Judge is modified and it is clarified that departmental proceedings will not continue till March 31, 1998. If by that time criminal case is not over, it is open to the respondent-Bank to continue departmental proceedings. The appeal is accordingly disposed of. No order as to costs.

Dt. 2.12.1997. (K.G.BALAKRISHNAN J.)

(C.K.THAKKER J)
